

**REMARKS**

Claims 1-10, 12, 17-19, and 21 are currently amended. Claims 25-26 are added. Claims 11, 17, and 22 are currently canceled. Applicant respectfully submits that the amendments and added claims contained herein are fully supported by the specification and drawings as originally filed and do not contain new matter.

**Claim Rejections Under 35 U.S.C. § 112**

Claims 1-2 and 17 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-2 have been amended to overcome the rejection under 35 U.S.C. §112, second paragraph. Claim 17 has been canceled, mooting the rejection thereof.

**Claim Rejections Under 35 U.S.C. § 102**

Claims 1-6, 12-13, and 15-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kupfer (U.S. Patent No. 4,620,816). Claims 1 and 7 were rejected under 35 U.S.C. § 102(b) as being anticipated by Doose (DE Patent No. 4021958 A1). Claims 1, 9-11, and 17-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Streit et al. (U.S. Patent No. 5,542,221). Claims 1, 12, 14, and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Donovan (U.S. Patent No. 4,557,475). Applicant respectfully traverses.

Claim 1, as currently amended, recites that at least three of the plurality of surface portions have different interior properties from each other so that each of the at least three surface portions imparts a different sensory stimuli to a sole of a user's foot when the user steps on that surface portion, that the floor construction is formed as a continuous unit with an externally homogeneous looking surface, and that the differing interior properties of the at least three surface portions are concealed from view.

Kupfer does not include or suggest surface portions that have different interior properties from each other, a floor construction formed as a continuous unit with an externally homogeneous looking surface, or that the differing interior properties of the at least three surface portions are concealed from view. Instead, Kupfer teaches a walking surface 18 (Figures 1-3 and column 4, lines 40-47) comprised of a plurality of individual tactful stimuli which are distributed

over substantially the entire walking surface. The tactful stimuli comprise a gradient of individual stimuli embossed within the walking surface 18 and comprise studs which are generally cylindrically shaped and extend generally vertically upwardly. The stimuli are varied in at least one of height, size, shape, slope, or spacing. Applicant respectfully submits that the foregoing attributes of Kupfer as well as Figures 1-7 of Kupfer teach away from surface portions have different interior properties from each other and a floor construction formed as a continuous unit with an externally homogeneous looking surface, as required by claim 1. Therefore, Kupfer does not include or suggest each and every recitation of claim 1, so claim 1 should be allowed over Kupfer.

Claims 2-6, 12-13, and 15-16 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 2-6, 12-13, and 15-16 should be allowed over Kupfer.

Doose teaches a floor having one or more paving blocks 1 supported on an elastic base 2 so that a person walking over the floor is made aware of his or her position by the deflection of the paving block when walking on that paving block. Applicant respectfully submits that this suggests two different interior properties: a first property for the block that deflects and a second property for the blocks that do not deflect. Therefore, Doose does not include or suggest that at least three of a plurality of surface portions have different interior properties from each other so that each of the at least three surface portions imparts a different sensory stimuli to a sole of a user's foot when the user steps on that surface portion, as required in claim 1. Moreover, Doose shows paving blocks in Figures 19 and 20 having differing external properties that are not concealed view and that do not form an externally homogeneous looking surface, as required by claim 1. Therefore, Doose does not include or suggest each and every recitation of claim 1, so claim 1 should be allowed over Doose.

Claim 7 depends from claim 1 and is thus allowable for at least the same reasons as claim 1. Therefore, claim 7 should be allowed over Doose.

There is no indication or suggestion in Streit et al. of at least three surface portions having different interior properties from each other so that each of the at least three surface portions imparts a different sensory stimuli to a sole of a user's foot when the user steps on that

surface portion. Instead, Streit et al. teaches a dual-stiffness flooring system of modular design that remains rigid under normal usage, but deflects under impact loading. More specifically, the flooring system of Streit et al. comprises a series of sections or tiles which can be interconnected to cover the high-risk area (column 3, lines 59-62). Each tile is composed of a plurality of elastomeric columns sandwiched between two urethane sheets. Applicant respectfully submits that suggests that each tile has the same interior properties, which is different than claim 1. In fact, there is nothing in Streit et al. to indicate or suggest that the respective tiles have different interior properties from each other. In particular, there is no indication or suggestion of at least three surface portions having different interior properties from each other. Therefore, Streit et al. does not include or suggest each and every recitation of claim 1, so claim 1 should be allowed over Streit et al.

Claims 9-10 and 18 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 9-10 and 18 should be allowed over Streit et al. Claims 11 and 17 are canceled mooted the rejection thereof.

There is no indication or suggestion in Donovan of a floor construction formed as a continuous unit with an externally homogeneous looking surface or that the differing interior properties of at least three surface portions are concealed from view. Instead, Donovan covers an entire surface of a playground area shown in Figure 1 with a rubber mat 16. A closed-cell shock-absorbing foam pad 11 for attenuating impacts is disposed under a portion of rubber mat 16 and is bonded thereto (Figures 2, 3, and 5). The remaining portion of mat 16 overlies and is bonded to concrete. Donovan also illustrates an exposed concrete surface 32 in Figures 4 and 5. Although, one may take the portion of mat 16 overlying shock absorbing-foam pad 11, the portion of mat 16 overlying the concrete, and concrete surface 32 as corresponding to three portions with different interior properties, the resulting surface is not a continuous unit with an externally homogeneous looking surface in that concrete surface 32 is visibly different from the surface of mat 16. Moreover, the differing interior properties of these three portions are not concealed from view in that the visible concrete surface 32 visibly indicates a different interior property from mat 16. Therefore, Donovan does not include or suggest each and every recitation of claim 1, so claim 1 should be allowed over Donovan.

Claims 12 and 14 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 12 and 14 should be allowed over Donovan.

Claim 22 is canceled, mooted the rejection thereof.

*Claim Rejections Under 35 U.S.C. § 103*

Claims 8 and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kupfer in view of Hydock (U.S. Patent Application No. 10/087,318, U.S. Patent No. 7,013,609). Applicant respectfully traverses. Applicant further reserves the right to swear behind Hydock.

Claim 1 is patentably distinct from Kupfer. Kupfer in combination with Hydock fails to overcome the deficiencies of Kupfer with respect to claim 1. Therefore, claim 1 is allowable over Kupfer in view of Hydock. Claims 8 and 19-21 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 18 and 19-21 should be allowed over Kupfer in view of Hydock.

*Added Claims*

Claims 25-26 are added. Claims 25-26 depend from claim 1 and are thus allowable for at least the same reasons as claim 1. Therefore, claims 25-26 should be allowed. Applicant respectfully requests admission and allowance of claims 25-26.

**CONCLUSION**

In view of the above remarks, Applicant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 312-2208.

Respectfully submitted,

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Tod A. Myrum  
Reg. No. 42,922

Attorneys for Applicant  
Leffert Jay & Polglaze  
P.O. Box 581009  
Minneapolis, MN 55458-1009  
T (612) 312-2200  
F (612) 312-2250